

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

**Minute Entry**

**Hearing Information:**

**Debtor:** SUSAN SIMPSON  
**Case Number:** 2:20-BK-02088-EPB                      **Chapter:** 13  
**Date / Time / Room:** TUESDAY, MARCH 16, 2021 10:00 AM TELEPHONIC HRGS  
**Bankruptcy Judge:** EDDWARD P. BALLINGER JR.  
**Courtroom Clerk:** ANNETTE FRANCHELLO  
**Reporter / ECR:** N/A

**Matters:**

- 1) PRE-TRIAL CONFERENCE ON OBJECTION TO DEBTOR'S THIRD AMENDED CHAPTER 13 PLAN REGARDING FEASIBILITY FILED BY NEW HORIZONS ROTH 401K PROFIT SHARING PLAN, BRAD GILBERTSON AS TRUSTEE  
**R / M #:** 98 / 0
- 2) NEW HORIZONS OBJECTION TO DEBTOR'S LODGED FORM OF AMENDED ORDER AS TO NEW HORIZONS MOTION TO LIFT THE AUTOMATIC STAY OR REQUEST FOR ADEQUATE PROTECTION AND ORDER AS TO ALLOWANCE OF NEW HORIZONS PROOF OF CLAIM  
**R / M #:** 135 / 0

**Appearances:**

GARY R. STICKELL, ATTORNEY FOR SUSAN SIMPSON  
ROSS M MUMME, ATTORNEY FOR EDWARD J. MANEY  
DEAN O'CONNOR, ATTORNEY FOR NEW HORIZONS 401K PROFIT SHARING PLAN

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**Proceedings:**

**ITEM #1 & #2**

The Court has reviewed all the filed material and ensues discussion with Mr. Stickell regarding his submission of an amended order changing the February date to March.

Mr. Stickell states that he provided a copy of the order to Mr. O'Connor and believed it was fine based on the email string. He did not talk to him about the change. He has not worked anything out with Mr. O'Connor. He notes that since the last hearing, Mr. O'Connor has taken Ms. Simpson's 2004 exam and the parties have provided the Court with a joint pretrial statement to go forward on Mr. O'Connor's objection to the plan. He has also filed an amended fourth plan reflecting Ms. Simpson's change of income plus her reaching out in anticipation of a forbearance from Chase. He notes that Mr. O'Connor has filed an objection. He then answers the Court's questions.

Mr. Mumme states that he has not been involved in majority of the discussions. He has taken a look at the fourth amended plan and will issue a recommendation in due course. He did not see anything that stood out as something he would object to. He notes that Mr. O'Connor's objection would have to be resolved.

Mr. O'Connor states his position. He did not agree to change conduit payments to start on March 1, 2021. He argues that the plan is not feasible since the Debtor does not have any income. He requests to move forward to a hearing so he can demonstrate the Debtor cannot make it work. He further believes there is an issue of bad faith. He confirms that he has filed his objection to the fourth amended plan. He is ready to go to trial noting that he does not need any further discovery.

Mr. Stickell explains that he has a letter dated February 19, 2021 from Chase which reflects an enrollment in a three-month assistance program. He states that Ms. Simpson also filed an application for a seven-month period. He continues discussion with the Court noting that Ms. Simpson cannot go forward without the forbearance from Chase.

The Court notes that if the Debtor does not get the forbearance, the Debtor would have to dismiss or convert.

Mr. Stickell states that the Debtor could also sell the property within the Chapter 13.

The Court states that a technical pretrial conference will need to be set regarding New Horizons objection. Ms. Stickell notes that a technical pre-trial conference was set on the motion for relief from the automatic stay filed by New Horizons. The Court and parties

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proceed to discuss witnesses.

Mr. Stickell notes that as part of the forbearance, Chase would have to file a notice of mortgage change to have the forbearance recognized.

The Court and parties discuss a trial date.

**COURT: IT IS ORDERED** setting trial for Wednesday, March 31, 2021 at 10:00 a.m. Zoom Order forthcoming. **IT IS FURTHER ORDERED** sustaining New Horizons objection to Debtor's lodged amended order as to New Horizons Motion to Lift the Automatic Stay. The Order is in effect with the February date.